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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,951	12/13/2001	Sascha Baumeister	POU920010115US1	5533

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EXAMINER

HAMZA, FARUK

ART UNIT PAPER NUMBER

2155

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/017,951

Applicant(s)

BAUMEISTER ET AL.

Examiner

Faruk Hamza

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/12/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to the application filed on December 13, 2001.  
Claims 1-25 are now pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1, 6, 8, 11, 13, 15, 17, 21, 24 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the local time" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the topological location" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the identity" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the time required" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the geographical location" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the topology" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the strength" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the processing load" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the local time" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the topological location" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the identity" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the time" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the geographical location" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the topology" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the strength" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the processing load" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the local time" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the client" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "the identity" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "the local time" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "the topological location" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "the identity" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "the time required" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the geographical location" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the topology" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the strength" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the processing load" in line 10. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1,2,4-6,8,10,11,13,15,17,20-22,24 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (U.S. Patent Number 6,412,004) hereinafter referred as Chen.

Chen teaches the invention as claimed including a metasever for managing the delivery of multimedia streams from, a plurality of multimedia servers to multiple clients over a diverse network (See abstract).

As to claim 1, Chen teaches a method for directing a user on a network to a server, comprising the steps of:

sending to the user a client side program that reads the local time of the user (Column 7, lines 19-65, Chen discloses reading client's local time);

receiving from the user a request and the local time of the user, wherein the client side program effectuated the sending of the local time of the user (Column 7, lines 19-65, Chen discloses sending local time of user );

determining from the local time of the user the topological location of the user on the network (Column 7, lines 19-65, Chen discloses using local time to locate the user);

determining from the topological location of the user the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user (Column 7, lines 19-65, Chen discloses selecting best server from based on location); and

directing the user to the identified server, wherein the time required to satisfy the request of the user is optimized (Column 7, lines 19-65, Chen discloses directing to the selected server).

As to claim 2, Chen teaches the method of claim 1, wherein the request of the user comprises any one of:

- a Hyper Text Transfer Protocol request;
- a File Transfer Protocol request; and
- a Simple Mail Transfer Protocol request (Column 4, lines 9-11).

As to claim 4, Chen teaches the method of claim 2, wherein the receiving step comprises the step of:

receiving from the user a request and the local time of the user in response to the activation of the client side program by the user (Column 7, lines 19-65).

As to claim 5, Chen teaches the method of claim 4, wherein the activation of the client side program by the user comprises the user clicking on a link (Column 7, lines 19-65).

As to claim 6, Chen teaches the method of claim 2, wherein the first determining step comprises the step of:

determining the topological location of the user on the network, wherein the determining takes the following factors into account:

- the local time of the user (Column 7, lines 19-65);
- the geographical location of the user (Column 7, lines 19-65); and



the topology of the network of the user (Column 7, lines 19-65).

As to claim 8, Chen teaches the method of claim 2, wherein the second determining step comprises the step of:

determining the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user, wherein the determining takes the following factors into account:

the topological location of the user on the network (Column 7, lines 19-65);

the topological location of other servers on the network (Column 7, lines 19-65);

the capability of other servers on the network to fulfill the user's request (Column 7, lines 19-65);

the strength of the connection between the user and other servers on the network (Column 7, lines 19-65); and

the processing load of the other servers on the network (Column 7, lines 19-65).

As to claim 10, Chen teaches the method of claim 2, wherein the directing step comprises the step of:

forwarding the request of the user to the identified server (Column 7, lines 19-65).

As to claim 11, Chen teaches a method for directing a user on a network to a server, comprising the steps of:

receiving from the user a Hyper Text Transfer Protocol (HTTP) request for web content (Column 4, lines 9-11, Chen discloses HTTP request);

sending to the user, in response to the HTTP request, web content comprising a client side program, wherein the client program reads the local time of the user and embeds the local time of the user into a link (Column 7, lines 19-65, Chen discloses using local time of the user);

receiving from the user, in response to the user clicking on the link, an HTTP request for a web page, wherein the HTTP request includes the local time of the user (Column 7, lines 19-65, Chen discloses local time of user);

determining from the local time of the user, using a server side program, the topological location of the user on the network (Column 7, lines 19-65, Chen discloses determining location from user local time);

determining from the topological location of the user, using a server side program, the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user (Column 7, lines 19-65, Chen discloses determining closest server based on local time); and

forwarding the request of the user to the identified server, wherein the time required to satisfy the request of the user is optimized (Column 7, lines 19-65, Chen discloses using closest server).

As to claim 13, Chen teaches the method of claim 11, wherein the first determining step comprises the step of:

determining, using a server side program, the topological location of the user on the network, wherein the determining takes the following factors into account:

the local time of the user (Column 7, lines 19-65);

the geographical location of the user (Column 7, lines 19-65); and

the topology of the network of the user (Column 7, lines 19-65).

As to claim 15, Chen teaches the method of claim 11, wherein the second determining step comprises the step of:

determining, using a server side program, the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user, wherein the determining takes the following factors into account:

the topological location of the user on the network (Column 7, lines 19-65);

the topological location of other servers on the network (Column 7, lines 19-65);

the capability of other servers on the network to fulfill the user's request (Column 7, lines 19-65);

the strength of the connection between the user and other servers on the network (Column 7, lines 19-65); and

the processing load of the other servers on the network (Column 7, lines 19-65).

As to claim 17, Chen teaches a computer system for directing a user on a network to a server, comprising:

a client side program that reads the local time of the client and embeds the local time of the user in a link (Column 7, lines 19-65, Chen discloses using user local time);

a web server for sending web content to a user in response to a request of the user, wherein the web content sent to the user comprises the client side program (Column 7, lines 19-65, Chen discloses using client's local time);

a server side program for receiving a request from the user, wherein the request is initiated by activation of the client side program and wherein the request includes the local time of the user, wherein the server side program determines from the local time of the user the identity of the server that is best capable of fulfilling the user's request (Column 7, lines 19-65, Chen discloses determining closest server for the user based on user's local time).

As to claim 20, Chen teaches the computer system of claim 17, wherein the request of the user comprises any one of:

a Hyper Text Transfer Protocol request;

a File Transfer Protocol request; and

a Simple Mail Transfer Protocol request (Column 4, lines 9-11).

As to claim 21, Chen teaches a computer readable medium including computer instructions for directing a user on a network to a server, the computer instructions comprising instructions for:

sending to the user a client side program that reads the local time of the user (Column 7, lines 19-65, Chen discloses using user's local time);

receiving from the user a request and the local time of the user, wherein the client side program effectuated the sending of the local time of the user (Column 7, lines 19-65, Chen discloses receiving request and local time from user);

determining from the local time of the user the topological location of the user on the network (Column 7, lines 19-65, Chen discloses determining user location from local time);

determining from the topological location of the user the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user; and directing the user to the identified server, wherein the time required to satisfy the request of the user is optimized (Column 7, lines 19-65, Chen discloses, Chen discloses determining closest server to the user from local time and using that server).

As to claim 22, Chen teaches the computer readable medium of claim 21, wherein the request of the user comprises any one of:

- a Hyper Text Transfer Protocol request;
- a File Transfer Protocol request; and
- a Simple Mail Transfer Protocol request (Column 4, lines 9-11).

As to claim 24, Chen teaches the computer readable medium of claim 22, wherein the first determining means comprises:

determining the topological location of the user on the network, wherein the determining takes the following factors into account:

- the local time of the user (Column 7, lines 19-65);
- the geographical location of the user (Column 7, lines 19-65); and
- the topology of the network of the user (Column 7, lines 19-65).

As to claim 25, Chen teaches the computer readable medium of claim 22, wherein the second determining means comprises:

determining the identity of the server that is capable of fulfilling the user's request and that is topologically nearest to the user, wherein the determining takes the following factors into account:

- the topological location of the user on the network (Column 7, lines 19-65);
- the topological location of other servers on the network, the capability of other servers on the network to fulfill the user's request (Column 7, lines 19-65);

the strength of the connection between the user and other servers on the network (Column 7, lines 19-65); and

the processing load of the other servers on the network (Column 7, lines 19-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3,7,9,12,14,16,18,19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (U.S. Patent Number 6,412,004) as applied above, and further in view of Graham et al. (U.S. Patent Number 6,871,213) hereinafter referred as Graham.

Graham teaches the invention substantially as claimed including a method and system for exchanging information over a communication network (See abstract).

As to claim 3, Chen teaches the method of claim 2, wherein the client side program comprises any one of: a Java applet; a Java scriptlet; a Java script; and an Active X control (Column 4, lines 9-11).

Chen does not explicitly teach the claimed limitation of a Java applet or a Java scriptlet or a Java script or an Active X control.

However, Graham teaches using Java script in client sever communications (Column 4, lines 39-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chen by using Java script in HTTP communications, which runs on client side. One would be motivated to do so to enhance server performance.

Claims 12, 18 and 23 represent limitations that are parallel to claim 3 and therefore are rejected for similar reasons.

As to claim 7, Chen teaches the method of claim 6, wherein the first determining step further comprises the step of:

employing a server side program for the determining step, wherein the server side program comprises any one of: a Common Gateway Interface script; a Java servlet; a Hyper Text Preprocessor script; and a Perl script (Column 4, lines 9-11; Column 7, lines 19-65).



Chen does not explicitly teaches the claimed limitation of a Common Gateway Interface script or a Java servlet or a Hyper Text Preprocessor script or a Perl script.

However, Graham teaches using Common Gateway Interface script (CGI script) on server side (Column 5, lines 6-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chen by using CGI script in HTTP communications, which runs on server side. One would be motivated to do so to enhance dynamic content creation.

Claims 9,14,16 and 19 represent limitations that are parallel to claim 7 and therefore are rejected for similar reasons.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

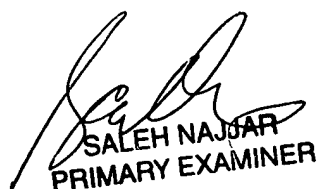
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll -free).

Faruk Hamza

Patent Examiner

Group Art Unite 2155



SALEH NAJJAR  
PRIMARY EXAMINER